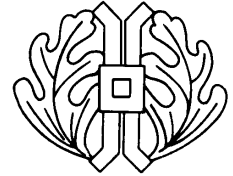


PREVENTIVE LAW SERIES

INVOLUNTARY ALLOTMENTS



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Involuntary allotments are a way deductions from a servicemember's pay can be made. Usually a previous valid court order exists which indicates that the person has an obligation to pay a certain amount of money.

Involuntary Allotment for Family Support

An involuntary allotment can be initiated against an active duty servicemember to pay for child support or a combination of spousal and child support, **but not spousal support only**. The servicemember must be under a court or administrative order to make the payments and the total amount in arrears must be greater than or equal to two months of payments. Pay which is subject to this type of allotment is:

- | | |
|----------------|--|
| 1) Basic Pay | 5) Proficiency Pay or Special Duty Pay |
| 2) BAH | 6) Submarine Pay |
| 3) BAS | 7) Flight Pay |
| 4) Special Pay | 8) Career Sea Pay |

A state child support enforcement agent or court sends a letter or order to the military finance center requesting an allotment be started. The military finance center will notify the servicemember of the involuntary allotment petition in order to give the servicemember an opportunity to respond in case there has been some type of error. Arrearages can be collected but there must be a second court order requiring payment of the arrearages by involuntary allotment.

The maximum amount that an involuntary allotment can be is:

- 1) 50% if member is supporting other family members and not 12 or more weeks in arrearages.
- 2) 55% if member is supporting other family members and is 12 or more weeks in arrearages.
- 3) 60% if member is not supporting other family members and is not 12 or more weeks in arrearages.
- 4) 65% if member is not supporting other family members and is 12 or more weeks in arrearages.

A servicemember can assert by affidavit that he/she is supporting other family members.

What pay can be deducted?

A servicemember's disposable earnings is subject to an involuntary allotment. It includes:

For officers and warrant officers – basic pay, special pay, most bonuses, BAS, BAH

For E-7 and above – basic pay, special pay, most bonuses, BAH

For E-6 and below – basic pay, special pay, most bonuses, and BAH for members with dependents.

DO NOT START A VOLUNTARY ALLOTMENT UPON RECEIVING NOTIFICATION OF AN INVOLUNTARY ALLOTMENT ACTION. OTHERWISE, THE RESULT WILL SIMPLY BE THAT TWO ALLOTMENTS WILL BE DEDUCTED FROM MILITARY PAY.

Involuntary Allotment for Judgment Indebtedness

This type of involuntary allotment may occur when there is a judgment against the servicemember for a specific amount of money from a creditor. In these circumstances, the creditor sends an involuntary allotment application to the military finance center along with a copy of the court order. In addition the creditor must certify that the judgment has not been modified or set aside, that all requirements imposed by the Soldiers and Sailors Civil Relief Act were complied with, that the servicemember's pay can be garnished, that the debt has not been discharged in bankruptcy, and that the creditor agrees to repay the servicemember within 30 days if payment made was erroneous.

The amount which may be deducted is a maximum of twenty-five percent (25%) of the disposable earnings of the servicemember (or lower depending on State law). The military pay which is subject to involuntary allotment due to judgment indebtedness is:

- | | |
|------------------------------|-------------------------------|
| 1) Basic Pay | 5) Severance Pay |
| 2) Special and Incentive Pay | 6) Lump-sum Reserve Bonus |
| 3) Accrued Leave Payments | 7) Inactive Duty Training Pay |
| 4) Readjustment Pay | |

When the creditor sends the petition to the military finance center, they will notify the servicemember and his/her Commanding Officer. If applicable, the servicemember may invoke any of the following defenses:

- 1) Failure to comply with the Soldiers and Sailors Civil Relief Act
- 2) Exigencies of military duties caused the servicemember's absence from the proceedings
- 3) Information is false or erroneous
- 4) The judgment has been satisfied, set aside, or materially amended
- 5) Legal protection against establishing an involuntary allotment exists

The determination of whether exigencies of military duties exist rest solely on the servicemember's Commanding Officer. Final determination of all other asserted defenses rests with the military finance center.

Legal Assistance Appointments:

For an appointment to see a legal assistance attorney, please contact the Legal Assistance Office, located in Building 610, Naval Air Station North Island, by telephone at (619) 545-6278.

Resources

- 42 U.S.C. Section 665
- 15 U.S.C. Section 1773 – Federal Consumer Protection Act
- 32 C.F.R. Part 54 – DoD implementing regulations

